

# State of South Dakota

SEVENTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 1998

880B0209

## HOUSE BILL NO. 1066

Introduced by: Representatives Collier, Barker, Cerny, Chicoine, Davis, Fischer-Clemens, Gleason, Hagen, Haley, Kazmerzak, Lee, Lockner, Lucas, Moore, Schaunaman, Schrempp, Sokolow, Sperry, and Waltman and Senators Hunhoff, Dennert, Dunn (Rebecca), Hutmacher, Kloucek, Lange, Lawler, Morford, Olson, Reedy, and Symens

1 FOR AN ACT ENTITLED, An Act to repeal certain statutes concerning the confidentiality of  
2 certain information resulting from the examination, investigation, or audit of private entities.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 1-27-29 be repealed.

5 ~~—1-27-29. A state agency which is authorized by law to investigate, examine, or audit the~~  
6 ~~papers, books, records, financial condition, or other information held by or concerning a private~~  
7 ~~entity may not disclose that it is conducting such an investigation, examination, or audit, except~~  
8 ~~as provided by §§ 1-27-28 to 1-27-32, inclusive.~~

9 Section 2. That § 1-27-30 be repealed.

10 ~~—1-27-30. All information obtained from or concerning the private entity by the state agency~~  
11 ~~as a result of such an investigation, examination, or audit is confidential, except as provided by~~  
12 ~~§§ 1-27-28 to 1-27-32, inclusive.~~

13 Section 3. That § 1-27-31 be repealed.

14 ~~—1-27-31. A state agency may not disclose that it is investigating, examining, or auditing a~~

1 ~~private entity, and may only disclose the information obtained from such an investigation,~~  
2 ~~examination, or audit as follows:~~

3 ~~—(1)—To the private entity being investigated, examined, or audited;~~

4 ~~—(2)—To those persons whom the private entity has authorized in writing to receive such~~  
5 ~~information;~~

6 ~~—(3)—To the officers, employees, or legal representatives of any other state agency which~~  
7 ~~requests the information in writing for the purpose of investigating and enforcing civil~~  
8 ~~or criminal matters. The written request will specify the particular information desired~~  
9 ~~and the purpose for which the information is requested;~~

10 ~~—(4)—To any administrative or judicial body if the information is directly related to the~~  
11 ~~resolution of an issue in the proceeding, or pursuant to an administrative or judicial~~  
12 ~~order. However, no person may use a subpoena, discovery, or other applicable~~  
13 ~~statutes to obtain such information;~~

14 ~~—(5)—To another state pursuant to an agreement between the State of South Dakota and~~  
15 ~~the other state, but only if the other state agrees to keep the information confidential~~  
16 ~~as set forth in §§ 1-27-28 to 1-27-32, inclusive;~~

17 ~~—(6)—To the attorney general, state's attorney, or any state, federal, or local law~~  
18 ~~enforcement officer;~~

19 ~~—(7)—To a federal agency pursuant to the provisions of federal law;~~

20 ~~—(8)—To the extent necessary to submit any final reports or filings which are otherwise~~  
21 ~~required by law to be prepared or filed;~~

22 ~~—(9)—For investigations to protect the natural resources of the state; or~~

23 ~~—(10)—To comply with federal law, rules, or program delegation requirements.~~

24 Section 4. That § 1-27-32 be repealed.

25 ~~—1-27-32. Disclosure of information made confidential by §§ 1-27-28 to 1-27-32, inclusive,~~

1 ~~except as provided in § 1-27-31, is a Class 6 felony.~~

2 Section 5. That § 1-27-28 be repealed.

3 ~~— 1-27-28. Terms used in §§ 1-27-29 to 1-27-32, inclusive, mean:~~

4 ~~— (1) "Private entity," any person or entity that is not a public entity as defined by~~

5 ~~§ 3-21-1(2).~~

6 ~~— (2) "State agency," each association, authority, board, commission, committee, council,~~

7 ~~department, division, state office, task force, and their officers, legal representatives,~~

8 ~~consultants, or other agents. The term does not include the Legislature, the Unified~~

9 ~~Judicial System, any law enforcement agency, or any unit of local government;~~